

1. How do Canada's copyright laws affect you? How should existing laws be modernized?

This is a very personal question, as different people will have different experiences.

Copyright affects everyone. Copyright is often thought of as balancing the interests of creators and users, but that divide is becoming increasingly false: today, creators need access to content to create, and users of content are themselves becoming creators. The internet has unleashed unprecedentedly innovative forms of creativity, and we have all benefited.

The process used to change Canada's copyright laws should reflect two key principles.

- **Consultation.** First, copyright policy should be a product of open consultation, without exclusion of any interest, and with active steps taken to include creator and user groups that are not powerful or centrally organized. These consultations and forums are an excellent first step, but widespread consultation should continue with the introduction of any copyright bill.
- **Copyright Policy must be Canadian Policy.** Second, copyright policy should reflect Canada's values and interests. Foreign governments and international industries loudly promote their interests. Those interests should not be confused with Canadians' values and interests.

2. Based on Canadian values and interests, how should copyright changes be made in order to withstand the test of time?

Changes to Canada's Copyright Act will withstand the test of time when they reflect the following principles:

- **Technology Neutrality.** Technological neutrality supports innovation. Technological partiality picks winners and losers.
- **Business Model Neutrality.** Privileging any particular business model distorts the economy and undermines the marketplace's mechanisms for promoting competition and innovation.
- **Balance.** Copyright is equally about creator and user rights. Copyright's balance is a virtue.
- **Respect for Policy Choices.** User rights – particularly those that benefit educators, museums, libraries and archives – reflect policy choices. Contracts and technologies that force users and creators to surrender the benefits of exceptions and limitations to copyright undermine those policy choices and harm Canada.

- **Control can Harm Creators.** Canada's copyright policy makers need to recognize that policies that assume absolute control over content don't always reflect reality and are not always in creators' or users' interests. Alternative compensation models are the only feasible means for addressing many copyright issues.

3. What sorts of copyright changes do you believe would best foster competition and investment in Canada?

Copyright policies that foster competition and investment include the following:

- **Flexible fair dealing.** Fair dealing is the primary vehicle by which Canadians enjoy uncontrolled access to content, but fair dealing is almost hopelessly out of date. Opening up the categories of dealings to include making back ups, time shifting, format shifting, parody and other transformative uses will make content more attractive, copyright more relevant, and innovation and creativity less bound.
- **Anti-circumvention laws that respect copyright's balance, not undermine it.** Bill C-61's implementation of the WIPO treaties had the potential to harm Canada's interests. WIPO implementation should not render legal activities illegal merely because a distributor uses digital locks.
- **Monetize and legalize file-sharing.** Unauthorized filesharing is the primary means by which music is distributed today – and the music industry has failed to monetize it. Give users the option to use it legally while compensating rights holders for that use.
- **Facilitate access to the Public Domain.** The public domain is our national treasure, but it is treated by Canadian copyright policy as a wasteland. Policy makers should facilitate access to the public domain through digitization policies, rational copyright remedies, reforms to the unlocatable copyright owner regime, enhanced use of registries, and holding the line on term at life of the author plus 50 years.
- **Repeal Crown Copyright.** There is no justification for imposing copyright on taxpayer-funded work. Free access to this content and watch innovative new services leap into the void.

4. What sorts of copyright changes do you believe would best foster innovation and creativity in Canada?

Copyright policies that foster innovation and creativity include the following:

- **Alternative Compensation Models.** Alternative compensation models should encourage competition among access providers and service providers.
- **Rights Management Information.** These digital tools do not frustrate access and support alternative compensation models. Their reasonable protection promotes the public interest.
- **Digitize Access.** Adopt rules that facilitate digital library loans, digitization of archives and our common heritage, and distance learning.

5. What kinds of changes would best position Canada as a leader in the global, digital economy?

Copyright policies that position Canada as a leader in the global, digital economy include the following:

- **Reform statutory damages.** Statutory damages can act as a disincentive to innovate and create – especially for libraries and schools – and have no place in non-commercial settings. Reforming statutory damages will enhance the competitive advantage these institutions provide Canada.
- **Adopt a notice and notice system.** Technological innovators and intermediaries need security that they do not face copyright risk for the activities of others, while rights-holders need a vehicle for addressing activities that they believe infringe on their rights. Canada should formalize a “notice and notice” system that accommodates both of these objectives. Canada should reject a takedown system, or a “graduated response” system, both of which have clear constitutional problems.
- **Recognize that circumvention of digital locks can have benefits.** Many have a legitimate interest in accessing content that is digitally locked. Good laws prohibit bad conduct, not neutral tools.

Thank you for the opportunity to participate in these consultations.